

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:18-CR-00452-FL-1

UNITED STATES OF AMERICA)	
)	
v.)	MOTION TO SEQUESTER
)	WITNESSES AND INCORPORATED
LEONID ISAAKOVICH TEYF)	MEMORANDUM OF LAW

NOW COMES the Defendant Leonid Isaakovich Teyf, by and through undersigned counsel, and pursuant to Rule 615 of the Federal Rules of Evidence, moves this Court for an order (1) sequestering all witnesses the Government intends to call during trial, and (2) prohibiting the Government's prosecutor and case agent(s) from discussing the trial testimony of Government witnesses with other persons who will be called as Government witnesses at trial.

Rule 615 of the Federal Rules of Evidence provides:

At the request of a party, the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney or (3) a person whose presence is shown by a party to be essential to the presentation of the party's cause.

Rule 615 provides for the exclusion of witnesses as a matter of right; once a request is made, the court "shall" sequester the witnesses. *See United States v. Farnham*, 791 F.2d 331, 334-35 (4th Cir. 1986). Rule 615 is designed to aid the truth-seeking process by denying the opportunity for witnesses to collude or for one witness to tailor his testimony to the testimony of another. Id. A sequestration order under Rule 615 not only excludes the witnesses from the courtroom, but may also include a prohibition against the discussion of trial testimony with

witnesses outside of the courtroom. *United States v. Greshner*, 802 F.2d 373, 376 (10th Cir. 1986).

It is well settled that the Government may exempt its investigating agent from the sequestration order pursuant to Rule 615(2). *United States v. Parodi*, 703 F.2d 768, 773 (4th Cir. 1983). However, authority exists for limiting the Government to designating only one such agent. *Farnam*, 791 F.2d at 335.

Of course, to have any effect a sequestration order must go beyond merely requiring the Government to designate only one representative exempt from the order. In addition, the court should direct that the prosecutor and Government case agent(s) not reveal the substance of the trial testimony of Government witnesses to other persons that the Government will call as a witness at trial. *See Greshner*, 802 F.2d at 376. This restriction on the Government is the only means of assuring Rule 615 truly assists in maintaining the truth-seeking process.

CONCLUSION

For the reasons stated herein, Defendant respectfully requests that this Motion for Sequestration of Government Witnesses be granted, and that the Court enter an order (1) requiring the sequestration of all Government witnesses, and (2) prohibiting the Government's prosecutor and case agent(s) from revealing the substance of the trial testimony of Government witnesses to other persons that the Government will call as a witness at trial.

This the 13th day of January, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2020, I electronically filed the foregoing **MOTION TO SEQUESTER WITNESSES AND INCORPORATED MEMORANDUM OF LAW** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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